IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 23 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE Sd/-
and
Hon'ble MR.JUSTICE D.A.MEHTA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

ELECON ENGINEERING CO LTD

Appearance:

MR AKIL QURESHI FOR MR MANISH R BHATT for Applicant.

MR RK PATEL for Respondent No. 1

CORAM : MR.JUSTICE A.R.DAVE
and
MR.JUSTICE D.A.MEHTA

Date of decision: 13/08/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE A.R.DAVE)

1 At the instance of the revenue, the following question has been referred to this Court under the provisions of section 256(1) of the Income Tax Act,1961 by the Income Tax Appellate Tribunal, Ahmedabad Bench "C".

"Whether on the facts and in the circumstances of the case, the Tribunal was right in law in coming to the conclusion that the expenses incurred by the assessee was not in the nature of the guest

house expenses which could be disallowed u/s.37(4) of the I.T.Act, 1961 ?"

2. We have heard learned Advocate Mr.Akil Qureshi appearing for the applicant and learned Advocate Mr.R.K.Patel appearing for the respondent assessee.

3. It has been submitted by the learned Advocates that a similar question of law had been referred to this Court in the case of the assessee itself for the assessment years 1978-79 and 1971-72. In Income Tax Reference No.368 of 1984 this Court had answered the said question in the affirmative i.e. in favour of the assessee and against the revenue.

4. In view of the fact that a similar question of law has already been answered by this Court in the case of the assessee in the affirmative, we also answer this question in the affirmative i.e. in favour of the assessee and against the revenue.

5. The Reference thus stands disposed of accordingly with no order as to costs.

Sd/- Sd/-
(A.R.Dave, J) (D.A.Mehta,J)
m.m.bhatt